

**Before the
Federal Communications Commission
WASHINGTON, D.C.**

In the Matter of)	
ONE Technologies, LLC)	
and Structure and Practices)	
of the Video Relay)	
Service Program)	
Request for Temporary Waiver)	CG Docket No. 10-51

To: Greg Hlibok, Chief, Disabilities Rights Office
Consumer & Governmental Affairs Bureau

Dated: May 23rd, 2011

EXECUTIVE SUMMARY

ONE Technologies LLC, (heretofore referred to as “ONE” or the “Company”), brings innovative communication enhancing technology to the market. ONE is committed to offering functionally equivalent services to deaf and hard-of-hearing customers. ONE provides mobile device captioning, as well as Sign Language interpreting for on-site, video remote, and video relay services (VRS).

The Commission invited those currently providing VRS under a “white label” agreement to seek a temporary waiver.¹ Granting a waiver of the rules adopted in the *VRS Report and Order* is in the public interest because consumers will continue to benefit from ONE’s proprietary communication platform. Grant of the waiver will not undermine the purpose of the rules adopted in the *VRS Report and Order* because ONE complies with all other current regulations promulgated by the Commission. This request for waiver details the plan, not to exceed three months, and ability of the Company to come into compliance with the rules announced in the *VRS Report and Order*.

¹ See *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 at ¶¶ 62, 63 (2011) (“VRS Report and Order”).



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ONE TECHNOLOGIES PETITION FOR TEMPORARY WAIVER

Pursuant to Rule 1.3 of the Federal Communications Commission’s (“Commission”) rules,² and the Commission’s April 6, 2011 Report and Order in this docket, ONE Technologies, LLC (heretofore referred to as “ONE” or the “Company”) hereby respectfully requests a waiver of the requirements published in the recent *Report and Order and Further Notice of Proposed Rulemaking* (“VRS Report and Order”)³. Specifically, ONE respectfully requests a temporary waiver of the requirement that only entities determined to be eligible to receive compensation from the TRS fund are eligible to provide Video Relay Service (VRS) and hold themselves out as a provider of VRS to the general public⁴, that VRS service must be offered under the name by which the eligible VRS provider offering such service became certified⁵, and that a third party must not hold itself out as a provider of VRS⁶. The Commission invited those currently providing Video Relay Service (“VRS”) under a “white label” agreement to seek a temporary

² 47 C.F.R. § 1.3.

³ *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 5545 (2011) (“VRS Report and Order”).

⁴ § 64.604 *Mandatory minimum standards.*, 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(i), 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii).

⁵ *id.* at (c)(5)(iii)(N)(1)(ii).

⁶ *id.* at (c)(5)(iii)(N)(1)(iv)

waiver.⁷ Here, grant of this waiver is in the public interest and is fully supported by Commission precedent and by the record of this proceeding. Grant of this waiver is in the public interest. Grant of this waiver will not undermine the purpose of the rules adopted in the *Order*. Lastly, ONE complies with all other current rules promulgated by the Commission.

I. BACKGROUND AND DESCRIPTION OF WAIVER REQUEST

The Company is a certified local exchange carrier (CLEC) in Colorado. ONE is a leading provider of remote video interpretation. ONE provides an enhanced level of functional equivalency for deaf and hard-of-hearing individuals by delivering innovations in telecommunications. ONE is highly regarded by customers and other providers because the staff is dedicated to the development and deployment of FCC compliant communication enhancing technology.

The Company employs RID certified interpreters in all 50 states. Each interpreter holds national certification granted upon passing rigorous testing administered by the Registry of Interpreters for the Deaf (RID). ONE provides extensive training on providing effective interpreting services within the boundaries of the regulatory framework established by the FCC.

Lastly, the company engages all customers, including customers with disabilities, to determine future needs and requirements. The professional Sign Language interpreter staff is considered by VRS consumers to be highly qualified. Consumers have come to depend on the advanced communication platform used by ONE.

In 2009, the Company began providing “white label” video relay services through a partnership with [REDACTED]. The next year, the Company entered into an agreement with

⁷ See *VRS Report and Order* at ¶¶ 62, 63 (2011)

and § 64.604(c)(5)(iii)(N)(1)(iii) until such time as the Company can become certified as an “eligible provider” under the new rules. Before entering any “white label” agreements, the Company submitted an application for certification at the end of 2007. In ONE’s opinion, subsequent changes in the regulatory protocol necessitate a new application. In addition, the *VRS Report and Order* states “VRS service must be offered under the name by which the eligible VRS provider offering such service became certified and in a manner that clearly identifies that provider of the service.”¹⁰

ONE seeks this waiver until such time as the Company can become certified as an “eligible provider” under the new rules. Currently ONE receives reimbursement from [REDACTED]. The Company asks the Commission to continue to allow ONE to receive reimbursement from [REDACTED] for the duration of the temporary waiver. Waiving this rule will allow ONE to continue to provide service to deaf and hard-of-hearing customers without service interruption. ONE will naturally comply with § 64.604(c)(5)(iii)(N)(1) (i) and (ii) upon approval of the Company’s application for certification.

B. Provision by a Third Party Entity

The *VRS Report and Order* states, “To the extent that an eligible VRS provider contracts with or otherwise authorizes a third party to provide any other services or functions related to the provision of VRS other than interpretation services or call center functions, that third party must not hold itself out as a provider of VRS, and must clearly identify the eligible VRS provider to the public.”¹¹

¹⁰ *VRS Report and Order* at ¶ 57 (2011)

¹¹ *id.* at ¶ 59

ONE seeks a temporary waiver requiring VRS service to be offered under the name by which the eligible VRS provider offering such service became certified, and that a third party must not hold itself out as a provider of VRS. ONE seeks a temporary waiver for the specific purpose of serving as the third party entity who provides VRS CAs and holds itself out to the public as a provider of VRS.¹²

III. EVIDENCE OF THE APPLICANT’S PLAN AND ABILITY TO COME INTO COMPLIANCE

The *VRS Report and Order* requires “applicants requesting a temporary waiver to provide, in writing, a description of the specific requirement(s) for which it is seeking a waiver, along with documentation demonstrating the applicant’s plan and ability to come into compliance with all of these requirements (other than the certification requirement) within a specified period of time, which shall not exceed three months from the date on which the rules become effective.”¹³

A. Branding of Service

ONE’s plan is to submit a new application by June 30th, 2011 to become an eligible provider. ONE is extremely pleased at the actions taken by the Commission, which address issues of fraud, waste and abuse. The Company is, and will remain compliant with applicable FCC regulations.

ONE is able to come into compliance because the current management team has the necessary knowledge and skills to complete the necessary tasks outlined in the plan.

¹² § 64.604 *Mandatory minimum standards.*, 47 C.F.R. § 64.604(c)(5)(iii)(N)(1)(iii), § 64.604(c)(5)(iii)(N)(1)(iv).

¹³ *VRS Report and Order* at ¶ 63 (2011)

ONE's plan is to co-brand the Company's VRS services as "Powered by CAC" for the duration of the temporary waiver. ONE will add the phrase "Powered by CAC" to its logo when being used to promote VRS. This will include the Company's website, emails, and other promotional material. ONE anticipates this will minimize confusion for consumers who "have been hindered in making informed choices when selecting their VRS companies because of the complex branding and commercial relationships that have existed between white labels and eligible providers."¹⁴ If the Commission determines alternative branding is in the public interest, ONE will comply with required branding.

ONE is able to come into compliance because the Company, its founders, and its management team intend to comply with Commission decisions designed to eliminate fraud and abuse in the provision of video relay service (VRS).

B. Provision by a Third Party Entity

i. Name Service Is Offered Under

As stated above, ONE's plan is to co-brand the Company's VRS services as "Powered by CAC" for the duration of the temporary waiver. ONE will add the phrase "Powered by CAC" to its logo when being used to promote VRS. ONE anticipates this will minimize confusion for consumers who "have been hindered in making informed choices when selecting their VRS companies because of the complex branding and commercial relationships that have existed between white labels and eligible providers."¹⁵ If the Commission determines alternative branding is in the public interest, ONE will comply with required branding.

¹⁴ *id* at ¶ 57

¹⁵ *Supra* n. 15

ii. Third Party Holding Itself Out to the Public

The Company plans to staff its call center(s) 24/7 with its own personnel without relying on any third party for support. Currently, [REDACTED] processes “ONE VRS” branded calls during off-peak hours. A waiver of the requirement that a third party must not hold itself out as a provider of VRS will give ONE time to make the necessary arrangements to staff its call center 24/7, by September 1st, 2011.¹⁶

ONE renegotiated technology partner agreements in response to new rules announced in the *VRS Report and Order*. [REDACTED] and ONE no longer maintain a revenue sharing agreement. Instead, ONE purchases licensing rights from [REDACTED] to use certain technologies necessary to support mandatory call center functions. These licensing rights are now paid for on a per-seat basis. No per-minute revenue is shared with [REDACTED].¹⁷ ONE manages all call center functions, including call distribution, call routing, call setup, mapping, call features, billing, and registration. ONE is now responsible for all technical protocol within the VRS process.

The significant investment of money and resources into technology and infrastructure demonstrate ONE’s commitment to upholding the FCC regulatory protocols in the Company’s daily operations.¹⁸ Owning and managing an independently operated call center, as well as developing a state of the art telecommunications platform demonstrates ONE’s ability to operate as a vertically integrated provider of VRS, completely in compliance with all current FCC regulations.¹⁹

¹⁶ See Appendix 3 – Interpreter and Executive Agreements

¹⁷ *VRS Report and Order* n. 164 (2011)

¹⁸ See Appendix 6 – List of Financing Arrangements

¹⁹ See Appendix 4 – Individuals Holding Equity Interest & Appendix 5 – Full & Part-time Employees

IV. WAIVER WILL SERVE THE PUBLIC INTEREST AND IS SUPPORTED BY THE DOCKET

The Commission may grant waiver of its rules for good cause²⁰ where “the particular facts make strict compliance inconsistent with the public interest.” Good cause for a waiver exists in this instance. In deciding whether to grant a waiver, the Commission may take into consideration hardship, equity or more effective implementation of overall policy on an individual basis.²¹ In this instance, the Commission explicitly stated that it will consider petitions for temporary waiver of the new rules to enable entities that are currently providing VRS services to continue to do so until such time as they can obtain certification under new procedures adopted by the Commission. In *Northeast Cellular Telephone* the court found that waiver is appropriate if “special circumstances warrant a deviation from the general rule and such deviation will serve the public interest”. These standards are met in this instance, and ONE’s request should be granted.

A temporary waiver of §64.604(c)(5)(iii)(N)(1)(i), (ii), (iii), and (iv) will allow ONE to continue providing vital telecommunications services to every user, including deaf and hard-of-hearing customers, without interruption. Without Commission action, ONE will be forced to cease all video relay operations, adversely affecting deaf and hard-of-hearing individuals who depend on the Company’s services every day. These customers will be abruptly left without access to their chosen provider.

²⁰ 47 C.F.R. § 1.3.

²¹ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Tel. C. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990)

The Company will sustain a substantial loss of investment from research and development costs expended in development of a state of the art telecommunications platform. In addition, ONE will be forced to lay off employees resulting in the loss of much needed jobs. ONE commends the Commission on its actions to eliminate waste, fraud, and abuse in the VRS program and is able and willing to comply with all regulatory protocols, grant of this waiver.

Appendix 1 - Call Center Lease

REDACTED FOR PUBLIC INSPECTION

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REDACTED FOR PUBLIC INSPECTION

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REDACTED FOR PUBLIC INSPECTION